

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ANDREW PHILLIPS,

Plaintiff,

v.

DR. CHARLES LARSON, BELINDA SCHRUBBE
and SERGEANT LEHMAN,

Defendants.

MEMORANDUM

08-cv-0362-bbc

In this claim for monetary relief brought under 42 U.S.C. § 1983, plaintiff Andrew Phillips, a prisoner housed at the Kettle Moraine Correctional Institution, asserts that he suffers from severe back pain and contends that defendants Dr. Charles Larson, Belinda Schrubbe and Sergeant Lehman violated his Eighth Amendment rights by failing to provide adequate medical care for his pain.

Plaintiff's original and supplemental complaints have been screened and he has been allowed to proceed on his Eighth Amendment claims against defendants Larson, Schrubbe and Lehman. Now, plaintiff has filed a document dated September 8, 2008 titled "Motion For The Appointment Of A New Judge" in which he states he "would rather have this Trial

and all Pre-Trial Motions be presided over by a District Judge and not a Magistrate Judge.” I will construe his request that a district judge rather than a magistrate judge preside over his trial as a withholding of consent to the magistrate judge exercising jurisdiction over the case. This request is unnecessary because this case has already been assigned to me.

Plaintiff also requests that a district judge rather than a magistrate judge preside over all pretrial motions. However, I will deny this request because pursuant to 28 U.S.C. § 636(b)(1)(A), I have designated the magistrate judge to hear and determine pretrial matters in all civil cases assigned to me, including discovery motions. Plaintiff should be aware that I will only reconsider a magistrate judge’s pretrial order if the order has been shown to be clearly erroneous or contrary to law.

Entered this 17th day of September, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge